

**Before the
Federal Communications Commission
Washington, D.C. 20554**

Joint Petition for Rulemaking of)	
America’s Public Television Stations,)	
the AWARN Alliance, the Consumer)	
Technology Association, and the National)	GN Docket No. 16-142
Association of Broadcasters Seeking to)	
Authorize Permissive Use of the “Next)	
Generation TV” Broadcast Television Standard)	

REPLY COMMENTS OF THE E.W. SCRIPPS COMPANY

**I.
Introduction and Background**

The E.W. Scripps Company and its subsidiaries (collectively, “Scripps”) hereby submit these reply comments in support of the Joint Petition for Rulemaking (the “Joint Petition”) filed by America’s Public Television Stations, the AWARN Alliance, the Consumer Technology Association, and the National Association of Broadcasters (collectively, the “Joint Petitioners”). The Joint Petition seeks Commission authorization (including relevant rule changes) for television stations to *voluntarily* operate pursuant to the “Next Generation TV” transmission standard known as ATSC 3.0, so that a market-driven transition to Next Generation TV may begin.

Since the Media Bureau’s Public Notice¹ soliciting comment on the Joint Petition was issued on April 26, 2016, more than 30 parties have filed comments in this proceeding. While not all commenters agree lockstop on every issue raised in each set of comments, the undeniable consensus reflected in the comments suggests the following: (1) ATSC 3.0 has extraordinary potential to revolutionize television service for consumers in numerous ways; (2) the Commission

¹ *Media Bureau Seeks Comment on Joint Petition for Rulemaking of America’s Public Television Stations, the AWARN Alliance, the Consumer Technology Association, and the National Association of Broadcasters Seeking to Authorize Permissive Use of the “Next Generation TV” Broadcast Standard*, Public Notice, 31 FCC Rcd 3858 (April 2016).

should promptly move forward with a rulemaking proceeding as requested by the Joint Petitioners and echoed by numerous commenters; (3) the Commission should not—at this early stage—mandate that stations implement ATSC 3.0; (4) stations that voluntarily elect to transmit using ATSC 3.0 should continue, for the foreseeable future², to provide viewers their ATSC 1.0 signals; and (5) at this time, implementation of ATSC 3.0 should be seamless for, and impose no new burdens on, MVPDs.

In short, Scripps supports the Joint Petition and its goals and respectfully recommends that the Commission adopt a *Notice of Proposed Rulemaking*, by October 1, 2016, for specific rule changes to effectuate the market-driven, simulcast approach conceived by Joint Petitioners. Such a Notice may also be an opportunity to *begin* to explore many of the longer-term policy issues and goals that will ultimately need, over time, to be resolved in order for all stakeholders—including consumers, television stations, and MVPDs—to fully transition (at some point in the future) to Next Generation TV.³

The E.W. Scripps Company and its subsidiaries are licensees of 33 local broadcast television stations in 24 markets across the United States. Scripps produces television programming, operates an award-winning investigative news service in Washington, D.C., and connects with viewers and other consumers through multiple digital platforms. As the licensee of

² In Scripps's view, stations should not be permitted, this early in the transition, to unilaterally decide when to terminate their 1.0 simulcast. As the transition progresses, Scripps expects that a maturing market will naturally dictate an end to simulcasting, whether on an individualized or industry-wide basis.

³ Because affordable Next Generation TV-compatible transmission equipment is already available, *see* Ex Parte of the National Association of Broadcasters, GN Docket No. 16-142 (filed June 3, 2016), at 1-3; Comments of GatesAir Inc., GN Docket No. 16-142 (filed May 26, 2016), at 3, and because consumers have demonstrated—by their rapid adoption of smartphones, tablets, and other technology used to view video programming—their proclivity for and interest in new technologies to improve and further their video programming consumption experiences, complete transition of the television broadcasting ecosystem may prove to occur at a pace that far exceeds that of the initial digital transition.

nearly three dozen local broadcast television stations, a member of Pearl,⁴ and a television programming and digital platform innovator, Scripps views the Next Generation TV standard as the next evolutionary step in furtherance of an increasingly connected consumer video marketplace; indeed, the potential presented by ATSC 3.0 heralds “convergence” on the broadcast platform with a depth and magnitude that is not possible with ATSC 1.0.

II. Next Generation TV Offers Untold Potential to Consumers

The history of Scripps as a broadcast company is one that demonstrates innovation and vision in providing enhanced consumer experiences and applying advances in technology to serve consumers and the public interest.⁵ As such, Scripps recognizes the potential of Next Generation TV to augment the viewer experience, introduce interactivity, and enhance the communication of emergency information. Virtually all commenters in this proceeding have hailed, or at least identified, a panoply of consumer benefits that may become reality with the implementation of ATSC 3.0. Among the projected benefits are:

- More robust over-the-air signals, causing greater signal reception by viewers on fixed and mobile receivers.
- Exceptional video quality—including HDR (high dynamic range) video featuring a dramatic expansion of light/color contrast, wider color gamut, and higher frame rates—and

⁴ According to Pearl’s own comments in this proceeding, “Pearl is a venture of U.S. broadcast companies with a shared interest in exploring forward-looking broadcast opportunities, including innovative ways of promoting local broadcast TV content and developing digital media and wireless platforms for the broadcast industry.” Comments of Pearl Mobile DTV Company LLC, GN Docket No. 16-142 (filed May 26, 2016). Pearl commissioned the study submitted with the Joint Petition.

⁵ See, e.g., Laura Hazard Owen, *Scripps, Known for Local TV and Radio Brands, Finds New Strategies for National Digital Audiences*, NiemanLab (June 13, 2016), available at www.niemanlab.org/2016/06/scripps-known-for-local-tv-and-radio-brands-finds-new-strategies-for-national-digital-audiences/ (describing Scripps’s “reinventions” of itself and current focus on evolving digital platforms); Scripps Innovation Challenge, About, available at www.ohio.edu/scrippscollege/innovationchallenge/about.cfm (describing Scripps’s ongoing competition that gives university students “the opportunity to create innovative solutions to real-world media and communication problems”).

significant audio improvements, including an immersive audio experience and the opportunity to personalize audio;

- Evolution of program material to offer consumers self-directed choice and interactive experiences and greater “depth” of program material to provide viewers with multiple and customizable views (panning, zooming, angle selection, etc.);
- Integration of the broadcast platform with digital platforms (using Internet Protocol) to provide consumers and broadcasters with new synergies and syntheses, various datacasting applications, and broadcast program content on mobile devices;
- Advances in emergency alerting, including receiver “wake up” functionality, localized alerting, media-rich emergency content, and facilitation of more efficient communication between and among first responders, public safety officials, news media, and the public;
- Hyper-localization of news, weather, political and public affairs, educational, and sports programming to better meet the interests and needs of communities and individuals.

Whether the consumer benefits currently conceived and discussed at this stage of this proceeding cover the full range of possibility, or are merely an illustration of the untold potential, is unknown; only time—and the opportunities to voluntarily experiment, innovate, and offer new services, and to gauge consumer interest, feedback, and engagement—will tell. Scripps believes that the types of services listed above (and discussed by others in this proceeding) only begin to scratch the surface, and consumers (and broadcasters) will need the Commission’s foresight and flexibility sought in the Joint Petition in order to discover the additional benefits that lie beneath.⁶

Some of the consumer benefits referenced above are mere potential at this juncture because, to date, ATSC 3.0 has been tested in the real world only from a technical standpoint.⁷

⁶ See Joint Petition at 12 (“The service model for Next Generation TV allows for flexibility to allow broadcasters to evolve their operations and businesses with more complex services over time.”).

⁷ As the Commission is aware, multiple successful rounds of real-world, field testing of ATSC 3.0 transmissions have been performed, pursuant to experimental special temporary authority. See Comments of GatesAir, GN Docket No. 16-142 (filed May 26, 2016), at 3-4 (recounting tests and their results). (Proceeding with a rulemaking at this juncture would obviate the need for the Media Bureau to process ATSC 3.0-related experimental requests in the future.) In addition, the report appended to the Joint Petition substantiates the success of the laboratory testing commissioned by Pearl Mobile DTV Company LLC, of which Scripps is a member. See generally, MEINTEL, SGRIGNOLI, & WALLACE, LLC, A REPORT TO THE FEDERAL COMMUNICATIONS COMMISSION REGARDING LABORATORY TESTING OF RECENT CONSUMER

Only a regulatory structure that allows for a market-driven period of voluntary adoption will allow such inchoate benefits to evolve from incipient to emergent to maturing. In order to realize the benefits of the transition to ATSC 3.0, Scripps supports the Joint Petitioners' approach for voluntary, individual implementation of the new standard, and Scripps has not conceived any better regulatory regime to encourage such development and maturation than that proposed in the Joint Petition.

III. The Commission Should Allow the Voluntary, Individual Implementation of ATSC 3.0 to Start as Soon as Possible

The Joint Petition proposes that the Commission allow the Next Generation TV transition to begin in a market-driven manner, and Joint Petitioners and other commenters encourage the Commission to move forward expeditiously by issuing a Notice of Proposed Rulemaking by October 1, 2016, to allow the transition to begin. Scripps agrees.

First, voluntary, individual adoption by television broadcasters, consumers, and MVPDs alike, will allow stakeholders to coordinate and evolve organically without stranding consumers and without subjecting any stakeholder to a one-size-fits-all regulatory mandate, at least during the initial stage of the transition. To be sure, coordination and communication between and among stakeholders regarding Next Generation TV transmissions and services will be necessary. Coordination and communication will facilitate seamless transitions for viewers (and MVPDs) and

DTV RECEIVERS WITH RESPECT TO ATSC 1.0 AND ATSC 3.0 DTV INTERFERENCE (April 8, 2016), *appended as Attachment B to Joint Petition*. To date, all such tests demonstrate that Next Generation TV operations are *technically* viable in, and compatible with, the current ATSC 1.0 environment, i.e., ATSC 3.0 operations do not pose an interference threat to ATSC 1.0 operations. What remain to be “tested” are consumer response to and demand for the array of programming options, features, and additional services that ATSC 3.0 will make possible; the Joint Petition (and a Notice of Proposed Rulemaking) are the initial steps to making such services a reality.

will foster innovation, experimentation, and maintenance of service models in a nascent and growing Next Generation TV ecosystem.

Second, stations are ready, willing, and able, and technology and equipment are available, to commence the transition once the Commission adopts rules. With this proceeding, the Commission faces an important occasion to replace *uncertainty* with *opportunity*: in the post-Incentive Auction channel repacking, many displaced television stations will be acquiring and installing new equipment; regulatory certainty relating to ATSC 3.0 will allow broadcasters to plan Next Generation TV-compatible equipment procurement.⁸ Without regulatory certainty, broadcasters may be wary of investing in such technology, potentially engendering market-dragging, rather than market-driving, forces.

Finally, while Scripps embraces the market-based, voluntary approach proposed by Joint Petitioners in order to begin the Next Generation TV transition, it would be premature to foreclose the possibility that mandatory implementation rules may be warranted in the future (just as they were to push the initial digital transition toward its 2009 finality). Scripps believes such a discussion is appropriately left to another day, after the technology and services have had an opportunity to begin to mature during the voluntary initial transition period.⁹

⁸ See, e.g., Comments of American Tower Corporation, GN Docket No. 16-142 (filed May 26, 2016), at 4-6 (supporting the Joint Petition so that “TV stations [are] provided the opportunity and encouragement to plan for Next Generation TV while they are evaluating and implementing their repack options”); Comments of Remote Telepointer, LLC, GN Docket No. 16-142 (filed May 26, 2016), at 6 (“The only way RTP sees the [r]epack and channel migration going smoothly is to leverage the FCC’s authorized use and capabilities of ATSC 3.0.”).

⁹ See, e.g., Comments of LS Telcom, Inc. and RadioSoft, Inc., GN Docket No. 16-142 (filed May 26, 2016), at 2 (“[T]he adoption [of new technology] by consumers is not an overnight process.”).

IV. Scripps Supports a Simulcast Approach

Joint Petitioners have proposed a regulatory/operational regime where a station electing to transmit using ATSC 3.0 (a “Next Generation TV Station”) would continue to make its ATSC 1.0 service available to consumers by simulcasting the latter signal on a “host” station “serving a substantially similar community of license.”¹⁰ The Joint Petition also proposes that the Next Generation TV Station would reciprocally broadcast the host station’s signal in ATSC 3.0.¹¹ Subject to the caveats discussed below, Scripps generally supports a simulcast model in order to ensure that station viewers retain access to the programming of stations that elect to implement ATSC 3.0.

During the initial digital transition (i.e., when stations transitioned from analog to digital television broadcasting), full-power stations maintained legacy analog service for viewers for an extended period of time in order to ensure continuity of consumer access to the news, emergency, public affairs, sports, and entertainment programming they had come to rely on. The Commission recognized that the conversion to digital-only transmissions could not be instantaneous not only because broad-scale, real-world testing of the technology was necessary but also because consumers (and MVPDs) would need to upgrade receivers in order to reap the benefits of the then-new (digital) technology. Accordingly, each full-power station was assigned a second channel on which to begin its digital operations during the “transition” period. With the ATSC 3.0 standard, consumers—and the television broadcasters who serve them—are on the verge of another

¹⁰ Joint Petition at 17.

¹¹ See Joint Petition at 18.

transition: to Next Generation TV service. And, it is no less important for this transition than it was during the initial digital transition to ensure that continuity is maintained for consumers.¹²

The appeal of Joint Petitioners' simulcast proposal for Next Generation TV is that it would preserve consumer (and MVPD) access to legacy ATSC 1.0 transmissions on a spectrum-efficient basis: no additional channels would need to be assigned or used,¹³ and, in using a multicast foundation for the simulcast model, television broadcasters would be leveraging one of the promised benefits of DTV itself.

In furtherance of a *market-based* approach, however, the Commission should make any reciprocal carriage *permissive* and not mandatory.¹⁴ While some stations may be eager to strike a reciprocal hosting agreement and go "all in" on Next Generation TV, other broadcasters may be willing to serve as ATSC 1.0 hosts themselves but not ready to commit to implementing ATSC 3.0 for their own signals. While it may become desirable and necessary for the Commission at some point in the future to mandate stakeholder conduct in order to further this transition, broadcasting is at the dawn of the Next Generation TV transition, and it is appropriate for the Commission, at least initially, to rely on local competitive market forces to effectuate the transition.

In locations where broadcasters, such as Scripps, operate television duopolies, the host partner for a Next Generation TV Station may be more readily available. And even in those instances, it may be preferable for one station to serve as the ATSC 1.0 host without immediately

¹² With respect to MVPD access to legacy ATSC 1.0 signals, Scripps relays many of its stations' signals to MVPDs via fiber. So long as a Next Generation TV Station continues to simulcast its ATSC 1.0 on a host station, consumers would continue to have unfettered access to the signal.

¹³ See Joint Petition at 18.

¹⁴ *Accord* Comments of Gray Television, Inc., GN Docket No. 16-142 (filed May 23, 2016), at 3.

launching a reciprocal ATSC 3.0 simulcast.¹⁵ In addition, a mandate for reciprocity could undermine the *market-driven* implementation of ATSC 3.0 because an ATSC 1.0 host that is not ready to launch in 3.0 would be forced to choose between doing so *involuntarily* or not participating as a 1.0 host.

Finally, Scripps agrees with certain other commenters that the content of each signal simulcast pursuant to such a Next Generation TV simulcasting arrangement should be treated, for purposes of Commission rules and policies that govern licensee responsibility and control,¹⁶ as the licensed signal of the *originating* station and not as the licensed signal of the *transmitting* station.¹⁷ This approach would create regulatory certainty—which is almost always necessary to foster innovation—for both stations. Under such a model, each originating station would remain solely responsible for the programming content of its respective signal (including children’s programming, sponsorship identification, advertising content, political programming, closed captioning, video description, etc.), while each transmitting station would be responsible for the technical characteristics of its own RF operations. That said, the various regulatory compliance issues that undoubtedly emerge will warrant careful consideration by the Commission in this proceeding and in any enforcement proceeding that arises in the context of Next Generation TV simulcasting. The following two examples begin to illustrate the concept.

If Station B receives a “request for time” from a legally qualified political candidate while Station A is hosting Station B’s ATSC 1.0 signal, only Station B would be responsible for

¹⁵ One reason for such hesitancy may be an absence in the near term of Next Generation TV services and features in the programming that could be offered by the station.

¹⁶ Accord Joint Petition at 18.

¹⁷ See, e.g., Comments of the Public Broadcasting Service and the Corporation for Public Broadcasting, GN Docket No. 16-142 (filed May 26, 2016), at 6-7.

(i) handling the request, (ii) compiling and posting any required political records to its own online public file, (iii) responding to any applicable equal opportunity request, (iv) satisfying any reasonable access duties, (v) ensuring any lowest unit charge obligations, (vi) airing an appropriate sponsorship identification, and (vii) defending any civil action (such as defamation) arising from such advertising. This result is sensible and intuitive because Station A is a completely passive conduit for Station B's 1.0 signal, which is merely a simulcast of Station B's existing program stream. Meanwhile, Station B is already required to take all the steps above for its ATSC 3.0 program stream that is airing on Station B. All of these responsibilities naturally belong to Station B and not to Station A. Thus, any violations of the Commission's technical rules by Station B should not be visited upon Station A.

Similarly, if Station B's IOT transmitter experiences a tube failure, causing Station B to operate at fifty percent of authorized power, Station B should be the only entity responsible for notifying the Commission and securing, if necessary, special temporary authority to operate at reduced power.¹⁸ Because Station A is not responsible for Station B's physical plant, though, Station A should have no obligations or liability for any technical issues that affect Station B, even if they impact the transmission and delivery of Station A's ATSC 1.0 program stream.

¹⁸ In such a circumstance, it may be desirable for Station B to advise the Commission in its filing that it serves as an NTSC 1.0 host for Station A.

In that regard, then, the Commission should consider rules that (i) place all applicable programming requirements and restrictions on each originating station,¹⁹ (ii) require each host station to pass-through all programming elements provided by the originating station, and (iii) hold only the transmitting station responsible for compliance with the technical operation of the RF signal being transmitted.

From a regulatory perspective, such a result could be obtained if the Commission were to recognize, for the limited purpose of the Next Generation TV transition, that such simulcasting is comparable to “channel sharing” or a “minor modification” of the station’s existing license. In any event, and to the extent necessary, the Commission should exempt the simulcast signals from the Commission’s local ownership limitations²⁰ and consider an approach that would allow a noncommercial station to serve as host for a commercial station.²¹ Failure to address these issues would frustrate the intent of the market-driven approach and would significantly undermine the efforts of willing stations to advance and evolve competition, the Next Generation TV transition, and the video programming marketplace.

IV. Conclusion

For the foregoing reasons, Scripps respectfully urges the Commission to issue a Notice of Proposed Rulemaking, by October 1, 2016, to propose rules that would (i) permit, but not require,

¹⁹ Because the ATSC 1.0 and 3.0 program simulcasts will be identical (save for the enhanced features offered by Next Generation TV), the Commission should make clear that stations will continue to be in compliance with the children’s educational and informational television programming requirements by simulcasting their “core” children’s programming and, in addition, that no additional children’s programming reporting obligation will be required for simulcast signals.

²⁰ See 47 C.F.R. § 73.3555. A clear declaration by the Commission that simulcasts of the nature contemplated by the Joint Petition do not implicate the local ownership rules would, importantly, foreclose allegations of violation of the local ownership limits.

²¹ Accord Comments of the Public Broadcasting Service and the Corporation for Public Broadcasting, GN Docket No. 16-142 (filed May 26, 2016), at 6-7.

television stations to voluntarily commence operations using the ATSC 3.0 transmission standard, and (ii) make necessary rule revisions to allow stations to bring the Next Generation TV transmission standard—and its attendant benefits—to consumers across the country without delay.

Respectfully submitted,

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